

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7622

Application of Leunigs Building, LLC for a                    )  
certificate of public good authorizing the installation    )  
and operation of a 26.4 kW solar electric generating    )  
facility pursuant to 30 V.S.A. § 8007(a)                    )

Order entered: 8/9/2010

**I. INTRODUCTION**

This case involves an application filed by Leunigs Building, LLC ("Leunigs"), on June 10, 2010, requesting a certificate of public good ("CPG"), pursuant to 30 V.S.A. §§ 219a, 248(j), 8007(a) and Vermont Public Service Board ("Board") Rule 5.100, for a roof-mounted solar electric generating facility.

The Board has reviewed the application and accompanying documents and agrees that, pursuant to 30 V.S.A. §§ 219a, 248, 8007(a) and Board Rule 5.100, a CPG should be issued without further investigation or hearing.

**II. PROCEDURAL HISTORY**

On April 30, 2010, Leunigs filed a petition with the Public Service Board ("Board") requesting a certificate of public good under 30 V.S.A. § 248(j) to construct and operate a 26.4 kW solar electric generating facility. The petition included prefiled testimony and exhibits, proposed findings of fact, and a proposed order pursuant to the requirements of 30 V.S.A. § 248(j).

Notice of the petition was sent on June 7, 2010, to all entities specified in 30 V.S.A. § 248(a)(4)(c) and other interested parties. The notice stated that any party wishing to submit comments as to whether the petition raises a significant issue with respect to the substantive criteria of 30 V.S.A. § 248 needed to file comments with the Board on or before July 7, 2010. A similar notice of the filing was published in *The Burlington Free Press* on June 9, 2010, and June 16, 2010.

In a June 7, 2010, memorandum, the Board requested additional information from Leunigs on the proposed project.

On June 10, 2010, Leunigs filed a letter<sup>1</sup> with the Board requesting that the Board review the petition pursuant to the recently enacted Public Act 159 (2010 VT., Adj. Sess.), which provided simplified permitting procedures for small renewable energy plants. Act 159 added 30 V.S.A. § 8007(a), which provides that:

The same application form, rules, and procedures that the board applies to net metering systems of 150 kilowatts (kW) or less under sections 219a and 248 of this title shall apply to the review under section 248 of this title of any renewable energy plant with a plant capacity of 150 kW or less and to the interconnection of such a plant with the system of a Vermont retail electricity provider. This requirement includes any waivers of criteria under section 248 of this title made pursuant to section 219a of this title.

Leunigs included a completed Application for a Certificate of Public Good for Interconnected Net Metered Power Systems ("Application") with its June 10 letter. Leunigs also provided the requested information from the Board's June 7 memorandum, and requested that the Board hold the 30 V.S.A. § 248(j) petition in abeyance pending the review of the simplified Application.

On June 14, 2010, Judith L. Dillon, Esq., entered an appearance on behalf of the Agency of Natural Resources.

On June 22, 2010, the Board issued a letter<sup>2</sup> to Leunigs, with copies to the Department of Public Service ("Department") and to the City of Burlington Electric Department, in which the Board informed Leunigs that the Application and the 30 V.S.A. § 248(j) petition would be consolidated into a single proceeding (Docket No. 7622). The Board required Leunigs to inform adjoining landowners that the proposed project was seeking permitting pursuant to 30 V.S.A. § 8007(a), that the proposed project had not changed from the 30 V.S.A. § 248(j) petition, and that the Board would be accepting comments on the proposed project until July 7, 2010.

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1. Letter from Brian Dunkiel, Esq., and Elizabeth H. Catlin Esq., to Susan Hudson, Clerk of the Board, dated June 9, 2010.

2. Letter from Susan Hudson, Clerk of the Board, to Brian Dunkiel, Esq., dated June 22, 2010.

On June 28, 2010, Leunigs filed a letter<sup>3</sup> with the Board indicating that it had satisfied the requirement of the Board's June 22, 2010, letter. The June 28 letter stated that copies had also been provided to the parties and statutory interested persons.

On July 7, 2010, the Department filed comments on the petition.<sup>4</sup> The Department declared that it had no objection to the petition, and requested that a condition be included in the CPG that addresses the double-counting of renewable energy credits ("RECs").

No other comments have been received from any other parties or interested persons.

### **III. FINDINGS**

Based upon the Application and its accompanying documents, the Board makes the following findings in this matter.

1. The proposed project will be on property owned by Leunigs and located at 111 Church Street in Burlington, Vermont. Application at Section 1.
2. The proposed generating facility is to be erected on the roof of an existing structure. Application at Section 4.
3. The proposed project consists of a photovoltaic electrical generation system with a system-rated output of 25.08 kW AC. The facility will be interconnected with the City of Burlington Electric Department electrical distribution system. Application at Section 4 and attachment.
4. The proposed project is being developed under the Sustainably Priced Energy Enterprise Development ("SPEED") standard-offer program. A standard-offer contract has been executed between the SPEED Facilitator and Merrick Foods, LLC, and that contract has been assigned to Leunigs Building, LLC. Fuller pf. at 1-2.
5. The standard-offer contract provides for the sale of the proposed project output and other attributes at a fixed price of \$ 0.30 per kWh for a period of 25 years. Fuller pf. at 4.
6. Leunigs has certified that the project is in compliance with all of the provisions of Section 3 of the application. Based on these submissions, we conclude that the project does not raise a significant issue with respect to the environmental criteria of 30 V.S.A. § 248. Application at Section 3.
7. Leunigs has certified compliance with the insurance requirements as set forth in Section 3 of the application. Application at Section 3.

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3. Letter from Elizabeth H. Catlin, Esq., to Susan Hudson, Clerk of the Board, dated June 28, 2010.

4. Letter from Louise C. Porter, Esq., to Susan M. Hudson, Clerk of the Board, dated July 7, 2010.

#### **IV. DISCUSSION**

With respect to the Department's requested condition regarding the double-counting of RECs, the Department made a similar request in Docket 7614, *Petition of Brattleboro Carbon Harvest, LLC*. In that docket, the Board determined that "the CPG should not include any conditions requiring disclosures addressing the transfer of the renewable attributes associated with the proposed project" and that "this issue is more appropriately addressed in Docket 7533, establishing a standard-offer program for qualifying SPEED resources".<sup>5</sup> We reach the same conclusion, for the same reason, here. As in Docket 7614, instead of the Department's proposed condition, we will include a condition requiring the Applicant to comply with any applicable disclosure requirements that are established in other proceedings, including Docket 7533, and Board Rules.

#### **V. CONCLUSION**

Pursuant to 30 V.S.A. § 8007(a), all small renewable energy plants of 150 kW or less in capacity may utilize the streamlined application and interconnection procedures developed for net metering systems under 30 V.S.A. § 219a and Board Rule 5.100.

Based upon the findings and evidence, the proposed small renewable energy project meets the requirements of Board Rule 5.100, the application does not raise a significant issue with respect to the substantive criteria of 30 V.S.A. § 248, and the proposed project will promote the general good of the state.

#### **VI. ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The proposed photovoltaic system, in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State of Vermont pursuant to 30 V.S.A. §§ 219a, 248, and 8007(a), and a certificate of public good to that effect shall be issued in this matter
2. Construction, operation, and maintenance of the proposed project shall be in accordance with the plans and representations as submitted in this proceeding. Any material deviation from these plans must be approved by the Board.

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5. *Petition of Brattleboro Carbon Harvest, LLC*, Docket 7622, Order of July 8, 2010, at 17.

3. The proposed project is hereby certified as a Sustainably Priced Energy Enterprise Development (SPEED) project.

4. Leunigs Building, LLC shall comply with any applicable requirements regarding the disclosure of renewable attributes that are established in other proceedings, including Docket 7533, and Board Rules.

DATED at Montpelier, Vermont, this 9<sup>th</sup> day of August, 2010.

<u>s/ James Volz</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/ David C. Coen</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/ John D. Burke</u>	)	

OFFICE OF THE CLERK

Filed: August 9, 2010

Attest: s/ Susan M. Hudson  
Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*